

United States Government

Department of Energy

memorandum

DATE: August 7, 2001

REPLY TO:

ATTN OF: Office of Environmental Policy and Guidance: Boulos: 6-1306

SUBJECT:

INFORMATION-RECENT CLEAN AIR ACT-RELATED FEDERAL REGISTER
NOTICES: June 2001 to July 2001

TO:

Distribution

EH-412 has been routinely distributing material on Environmental Protection Agency (EPA) clean air-related Federal Register (FR) notices not otherwise transmitted to program and field offices in order to make the Departmental complex aware of information that may be of relevance to its operations. Attached are summaries of clean air-related ten FR notices published during the period June 2001 to July 2001.

If you have any questions concerning these notices, please contact Mr. Emile Boulos of my staff at: emile.boulos@eh.doe.gov; 202-586-1306.

(A. Wallo signed the original memo)

Andrew Wallo III
Director
Air, Water and Radiation Division

Attachment

ATTACHMENT

CLEAN AIR ACT-RELATED FEDERAL REGISTER (FR) NOTICES PUBLISHED DURING THE PERIOD JUNE 2001 TO JULY 2001

- I. **NOTICE OF AVAILABILITY: 40 CFR PARTS 60, 61 & 63, " RECENT POSTING TO THE APPLICABILITY DETERMINATION INDEX (ADI) DATABASE SYSTEM OF AGENCY APPLICABILITY DETERMINATIONS, ALTERNATIVE MONITORING DECISIONS, AND REGULATORY INTERPRETATIONS PERTAINING TO STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS", (66 FR 30905; JUNE 8, 2001).**

On June 8, 2001, the Environmental Protection Agency (EPA) issued a notice announcing that complete documents of applicability determinations, alternative monitoring decisions, and regulatory interpretations were posted on the Applicability Determination Index (ADI) database system, under the New Source Performance Standards (NSPS), 40 CFR 60, and the National Emissions Standards for Hazardous Air Pollutants (NESHAP), 40 CFR 61 and 63). The database can be accessed at: <http://es.epa.gov/oeca/eptdd/adi.html>.

The ADI is an electronic index on the Internet that contains EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS and NESHAP. The letters and memoranda may be searched by date, office of issuance, subpart, and citation, control number or by string word searches.

EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them on the Applicability Determination Index (ADI) on a quarterly basis.

The June 8, 2001 notice contains a summary of 63 of such documents, and a table that identifies the database control number for each document posted on the ADI database system on April 17, 2001, the applicable category, the Subparts 40 CFR Part 60, 61, or 63 covered by the document, and the title of the document, which provides a brief description of the subject matter.

The General Provisions to the NSPS in 40 CFR Part 60 and the NESHAP in 40 CFR Part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. EPA's written responses to these inquiries are broadly termed "*applicability determinations*" (40 CFR 60.5 and 61.06). The NSPS and NESHAP also allow sources to seek permission to use monitoring or recordkeeping, which is different from the promulgated requirements, [40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f)]. EPA's written responses to these inquiries are broadly termed "*alternative monitoring decisions*".

Further, EPA responded to written inquiries about the broad range of NSPS and NESHAP regulatory requirements as they pertain to a whole source category. These inquiries may pertain, for example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping or reporting requirements contained in the regulation.

II. PROPOSED RULE: 40 CFR PARTS 72, 75, 78, and 79, "REVISIONS TO THE FEDERAL NITROGEN OXIDES BUDGET TRADING PROGRAM, THE EMISSIONS MONITORING PROVISIONS, THE PERMITS REGULATIONS, AND THE APPEAL PROCEDURES", (66 FR 31978; JUNE 13, 2001).

On June 13, 2001, the EPA proposed rule revisions to modify existing monitoring and reporting requirements in 40 CFR Parts 72 and 75 that support emission control programs that use the monitoring and reporting provisions of Part 75 such as the Acid Rain Program and State Nitrogen Oxides reduction programs developed in response to the October 27, 1998, Nitrogen Oxides State Implementation Plan (SIP) call.

The emphasis of these revisions is threefold: (1) to streamline and add flexibility to the monitoring and reporting requirements in response to the significant changes that have occurred in power generation in recent years due to deregulation and recent environmental actions initiated by EPA to reduce nitrogen oxides emissions; (2) to make technical corrections and clarifications to the rule; and (3) to remove outdated provisions, correct printing, typographical, and grammatical errors. In addition to correct or clarify cross-references, and in a few instances, to ensure that the specific rule language is consistent with the Agency's intent.

The most substantive proposed changes are listed in the preamble of the Federal Register under Section I, "Background and Summary of Proposed Rule"; and Section II, "Detailed Discussion of Proposed Revisions". Entities regulated by this proposed rule are fossil fuel -fired boilers, turbines, and combined cycle units that serve generators that produce electricity, generate steam, or cogenerate electricity and steam.

III. PROPOSED RULE: 40 CFR PARTS 60 and 62, "FEDERAL PLAN REQUIREMENTS FOR SMALL MUNICIPAL WASTE COMBUSTION UNITS CONSTRUCTED ON OR BEFORE AUGUST 30, 1999", (66 FR 32483; JUNE 14, 2001).

On June 14, 2001, EPA proposed in the Federal Register (66 FR 32483) a Federal plan to implement emission guidelines for small municipal waste combustion (MWC) units located in States and Indian country without EPA approved and effective State or Tribal plans.

On December 6, 2000, EPA promulgated emission guidelines for existing small MWC units (40 CFR part 60, subpart BBBB). Existing small MWC units are those units on which construction was commenced on or before August 30, 1999.

Sections 111 and 129 of the Clean Air Act (CAA) require States with existing small MWC units subject to the emission guidelines to submit plans to EPA that implement and

enforce the emission guidelines. State plans are due from States with small MWC units subject to the emission guidelines on December 6, 2001.

If a State or Tribe with existing small MWC units does not submit an approvable plan within 2 years after promulgation of the emission guidelines (December 6, 2002), Sections 111(d) and 129(b)(3) of the CAA require EPA to develop, implement, and enforce a Federal plan for small MWC units located in that State or Tribal jurisdiction. The elements of the Federal plan are summarized in Section II of the Federal Register preamble.

IV. **CFR CORRECTION: 40 CFR PART 75, "CONTINUOUS EMISSIONS MONITORING", (66 FR 31842; JUNE 13, 2001).**

On June 13, 2001, the EPA issued a correction to 40 CFR Part 75. In Title 40 of the Code of Federal Regulations, Parts 72 to 80, revised as of July 1, 2000, Part 75 is corrected in Section 75.10 by adding paragraph (g), and in Section 75.32 by adding a sentence to paragraph (a)(3) after the second sentence to read as follows:

- Section 75.10 General operating requirements:

(g) Minimum Recording and Reporting Requirements. The owner or operator shall record and the designated representative shall report the hourly, daily, quarterly, and annual information collected under the requirements of this part as specified in subparts F and G of this part.
- Section 75.32 Determination of monitor data availability for standard missing data procedures:

(a)(3) For a unit that has accumulated less than 8,760 unit operating hours in the previous three years (26,280 clock hours), replace the words "during previous 8,760 unit operating hours" in Equation 9 with "in the previous three years" and replace "8,760" with "total unit operating hours in the previous three years".

V. **NOTICE OF A DRAFT FOR PUBLIC REVIEW AND COMMENT, "PRELIMINARY DRAFT STAFF PAPER FOR PARTICULATE MATTER", (66 FR 32621; JUNE 15, 2001).**

- On June 15, 2001, EPA issued a notice in the Federal Register (66 FR 32621), for public review and comment on a preliminary draft document, "Review of the National Ambient Air Quality Standards (NAAQS) for Particulate Matter (PM): Policy Assessment of Scientific and Technical Information (Preliminary Draft Staff Paper)".

The purpose of the Staff Paper is to evaluate the policy implications of the key scientific and technical information contained in a related EPA document, "Air Quality Criteria for Particulate Matter", and to identify critical elements that EPA should consider in reviewing the NAAQS. The Staff Paper is intended to "bridge the gap" between the scientific review

contained in the Air Quality Criteria document and the public health and welfare policy judgments required of the Administrator in reviewing the NAAQS (Natural Resources Defense Council v. Administrator, 902 F.2d 962, 967 (D.C. Cir. 1990)).

The preliminary draft Staff Paper includes preliminary assessments of the scientific and technical information contained in the draft Air Quality Criteria document and discusses proposed analyses to be conducted for inclusion in a subsequent draft Staff Paper. Staff conclusions and recommendations on the NAAQS for PM are not included in this preliminary draft but will be included in a subsequent draft to be made available for further review and comment.

Sections 108 and 109 of the Clean Air Act require EPA to carry out a periodic review and revision, where appropriate, of the scientific criteria and the NAAQS for "criteria" air pollutants such as PM. Details of EPA's plans for review of the NAAQS for PM were announced in a previous Federal Register notice (62 FR 55201, October 23, 1997). The second external review draft of the Air Quality Criteria for Particulate Matter was recently made available for public review and comment (66 FR 18929, April 12, 2001).

- The EPA, Office of Air Quality Planning and Standards (OAQPS) also made available for public review and comment a draft EPA document entitled, "Particulate Matter NAAQS Risk Analysis Scoping Plan".

The draft Risk Analysis Scoping Plan describes EPA's plans and approach for conducting PM health risk analyses that will be summarized and discussed in the next draft of the Staff Paper.

The preliminary draft Staff Paper and draft Risk Analysis Scoping Plan, along with the second external review draft of the Air Quality Criteria for PM, will be reviewed in a public meeting of the Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board. A future Federal Register notice will inform the public of the date and location of that meeting.

The preliminary draft Staff Paper and draft Risk Analysis Scoping Plan can be obtained at the Agency's OAQPS Technology Transfer Network (TTN) under the technical area of Office of Air and Radiation Policy and Guidance, "Staff Papers", at:
<http://www.epa.gov/ttn/oarpg/t1sp.html>.

VI. **PARTIAL WITHDRAWAL OF DIRECT FINAL RULE: 40 CFR PART 60, "STANDARDS OF PERFORMANCE FOR ELECTRIC UTILITY STEAM GENERATING UNITS FOR WHICH CONSTRUCTION IS COMMENCED AFTER SEPTEMBER 18, 1978; STANDARDS OF PERFORMANCE FOR INDUSTRIAL-COMMERCIAL-INSTITUTIONAL STEAM GENERATING UNITS", (66 FR 31177; JUNE 11, 2001).**

On June 11, 2001, the EPA withdrew two provisions from the direct final rule published in the Federal Register, (66 FR 18546; 4/10/2001), for SubPart Da-Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978, and SubPart Db-Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units. These provisions deal with

the revised definition of "boiler operating day" in 40 CFR 60.41a and the data substitution requirement contained in 40 CFR 60.46a(j)(2). The withdrawal was due to adverse comments received on the subject rule.

VII. **DIRECT FINAL RULE: 40 CFR PART 52, " DETERMINATION OF ATTAINMENT FOR THE CARBON MONOXIDE NATIONAL AMBIENT AIR QUALITY STANDARDS (NAAQS) FOR METROPOLITAN DENVER; STATE OF COLORADO", (66 FR 34114; JUNE 27, 2001).**

On June 27, 2001, EPA issued a direct final rule determining that the metropolitan Denver Carbon Monoxide (CO), " serious" nonattainment area, as described in 40 CFR 81.306, has attained the 8-hour CO NAAQS by December 31, 2000. This is based on quality assured ambient air monitoring data for the years 1998, 1999, and 2000. This action was taken as required by Section 179 (c)(1) of the Clean Air Act (CAA) and is consistent with the requirements of Section 186(b)(2) of the CAA for CO nonattainment areas. This determination of attainment does not redesignate the Denver area to attainment for the CO NAAQS. The CAA requires that for an area to be redesignated to attainment, the five criteria in section 107(d)(3)(E) must first be satisfied and EPA must fully approve a maintenance plan for the area.

As described in 40 CFR 50.8, the national primary ambient air quality standard for CO is nine (9) parts per million (10 milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year. The levels of CO in the ambient air is measured by a reference method that is based on 40 CFR Part 50, appendix C and designated in accordance with 40 CFR Part 53 or an equivalent method.

Attainment of the CO standard is not a momentary phenomenon that is based on short-term data. Instead, EPA considers an area to be in attainment if each of the CO ambient air quality monitors in the area doesn't have more than one exceedance of the CO standard over a one-year period, (40 CFR 50.8 and 40 CFR Part 50, appendix C). If any monitor in the area's CO monitoring network records more than one exceedance of the CO standard during a one-year calendar period, then the area is in violation of the CO NAAQS.

In addition, EPA interpretation of the CAA has been that to be considered in attainment for the CO NAAQS, an area must attain the CO NAAQS for at least a continuous two-year calendar period.

VIII. **FINAL RULE; TECHNICAL CORRECTIONS: 40 CFR PART 63, " NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAP) FROM OIL AND NATURAL GAS PRODUCTION FACILITIES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FROM NATURAL GAS TRANSMISSION AND STORAGE FACILITIES", (66 FR 34548; JUNE 29, 2001).**

On June 17, 1999, EPA issued the national emission standards for hazardous air pollutants (NESHAP) from Oil and Natural Gas Production Facilities and the national emission standards for hazardous air pollutants from Natural Gas Transmission and Storage Facilities (Oil and Gas NESHAP), (64 FR 32610). The June 29, 2001 final rule

technical corrections clarify intent and correct errors in the Oil and Gas NESHAP.

The technical corrections are minor in nature and will not change the level of health protection the Oil and Gas NESHAP provide or the basic control requirements of the Oil and Gas NESHAP. The Oil and Gas NESHAP require new and existing major sources to control emissions of hazardous air pollutants (HAP) to the level reflecting application of the maximum achievable control technology (MACT).

Entities that will potentially be affected by these corrections are those that process, upgrade, or store hydrocarbon liquids; or process, upgrade, store, or transport natural gas and are major sources of HAP as defined in Section 112 of the Clean Air Act (CAA). To determine whether a facility is regulated by this action, the applicability criteria in Sections. 63.760 and 63.1270 of the Oil and Gas NESHAP should be examined.

IX. **PROPOSED RULE: 40 CFR PART 81, “CLEAN AIR ACT ATTAINMENT FINDING; BULLHEAD CITY AND PAYSON NONATTAINMENT AREAS, ARIZONA; SACRAMENTO AND SAN BERNARDINO NONATTAINMENT AREAS, CALIFORNIA; PARTICULATE MATTER OF 10 MICRONS OR LESS (PM-10)”, (66 FR 38603; JULY 25, 2001).**

On July 25, 2001, EPA issued a proposed rule determining that the Bullhead City and Payton PM-10 nonattainment areas in Arizona and the Sacramento and San Bernardino PM-10 nonattainment areas in California have attained the National Ambient Air Quality Standard (NAAQS) for PM-10 by the applicable December 31, 2000 attainment date.

The determination was based upon monitored air quality data for the PM-10 NAAQS during the years 1998-2000. This determination of attainment does not redesignate the Bullhead City, Payson, Sacramento and San Bernardino areas to attainment for PM-10. The Clean Air Act requires that, for an area to be redesignated, five criteria must be satisfied including the submittal of a maintenance plan as a State Implementation Plan (SIP) revision.

X. **PROPOSED RULE: 40 CFR Part 81, “Finding of Attainment for PM-10; Lakeview, Oregon, PM-10 Nonattainment Area”, (66 FR 38967; July 26, 2001).**

On July 26, 2001, EPA issued a proposed rule determining that the Lakeview nonattainment area in Oregon has attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than, or equal to a nominal ten micrometers (PM-10) as of December 31, 1999. Comments on this action are due to EPA on August 27, 2001.

The EPA also published its determination as a direct final rule in the Federal Register (66 FR 38948; July 26, 2001). The direct final rule will be effective on September 24, 2001, unless EPA receives adverse comments by August 27, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.
